

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

## **House Bill 3044**

BY DELEGATES WILLIAMS, SUMMERS, FLEISCHAUER,  
PYLES, WALKER, HANSEN, CAPUTO, MILEY, ZUKOFF,  
QUEEN AND SYPOLT

[Passed March 9, 2019; in effect ninety days from  
passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §17-30-1, §17-30-2, §17-30-3, §17-30-4 and §17-30-5, all relating to requiring  
3 the Commissioner of Highways to develop a formula for allocating road funds among  
4 districts, for the benefit of the counties; making legislative findings; requiring the  
5 commissioner to solicit and consider public comments; requiring the commissioner to  
6 include certain factors in the formula; and requiring the commissioner to submit the  
7 formula to the Legislature for approval as a legislative rule.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 30. ALLOCATION OF FUNDS.**

**§17-30-1. Findings.**

1 The Legislature finds that:

2 (1) According to an independent audit report submitted to the Joint Committee on  
3 Government and Finance on January 10, 2016, the West Virginia Division of Highways currently  
4 has no formula in place to allocate and distribute road funds among districts and counties. The  
5 audit report recommended that in order to more effectively distribute funds, the division should  
6 create a framework to allocate and distribute road funds to each of the districts and county  
7 organizations; that a baseline maintenance capital plan should be reexamined and revised  
8 periodically; and that metrics for the allocation process should be transparent.

9 (2) A transparent process to develop an official formula for allocating road funds among  
10 districts in the state is crucial to ensure that funds are distributed in an effective and efficient  
11 manner, based on the needs of the counties within the districts.

**§17-30-2. Definitions.**

1 For the purposes of this article:

2 “Commissioner” means the West Virginia Commissioner of Highways.

3           “District” means one of the management areas of the state, which include one or more  
4 counties, established by the West Virginia Division of Highways, with each district headed by a  
5 separate district engineer or manager.

6           “Heavy truck” means an on-road vehicle with a gross vehicle weight rating of 50,000  
7 pounds or more.

8           “Road funds” means state funds appropriated or otherwise available to the West Virginia  
9 Division of Highways for the purpose of:

- 10           (A) New construction;
- 11           (B) Maintenance; or
- 12           (C) New capacity improvements.

**§17-30-3. Formula for allocation of funds.**

1           (a) Prior to the beginning of the regular legislative session in 2020, the commissioner shall  
2 develop and propose a formula for the effective and efficient allocation of state road funds among  
3 the districts and counties in this state, to be promulgated as a legislative rule.

4           (b) The commissioner shall include, but not be limited to, the following factors in the  
5 formula developed pursuant to this section:

- 6           (1) The population served in each county according to the most recent United States  
7 Census;
- 8           (2) The amount of population growth in each county according to the most recent United  
9 States Census projection;
- 10           (3) The number of total lane miles in a county and their condition;
- 11           (4) The approximate number of vehicle miles travelled within a county;
- 12           (5) The approximate number of heavy truck miles travelled within a county; and
- 13           (6) The number of bridges in a county and their condition.

14 (c) Before developing the formula required by this section, the commissioner shall review  
15 and consider all public comments submitted to the commissioner pursuant to §17-30-4 of this  
16 code.

**§17-30-4. Public comment period.**

1 (a) On or before October 1, 2019, the commissioner shall develop and implement a  
2 mechanism to proactively seek public comments and recommendations regarding the division's  
3 current allocation of road funds.

4 (b) In developing and implementing a mechanism to seek public comments, the  
5 commissioner shall, at a minimum:

- 6 (1) Use multimedia resources to publicize the public comment period;
- 7 (2) Allow a period of six weeks for members of the public to submit comments to the  
8 commissioner through written and electronic forms of communication; and
- 9 (3) Make all public comments received by the commissioner available for the public to  
10 view on the department's website.

11 (c) The commissioner shall issue targeted communications to the following entities to  
12 encourage representatives of those entities to participate in the public comment period required  
13 by this subsection:

- 14 (1) Division of Highways district offices;
- 15 (2) County commissions; and
- 16 (3) Metropolitan planning organizations.

**§17-30-5. Legislative rule.**

1 (a) For approval during the regular legislative session of 2021, the commissioner shall  
2 propose rules for legislative approval in accordance with the requirements of §29A-3-1 *et seq.* of  
3 this code, including the formula developed pursuant to this section.

4 (b) The proposed legislative rule shall allow districts to exercise discretion over how to  
5 distribute funds among counties within the district over a period of five years: *Provided*, That at

6 the end of the five-year period, all counties within the district shall have received the funds  
7 apportioned to them by the formula developed pursuant to this article.

8 (c) On or before June 30, 2020, the commissioner shall present the proposed legislative  
9 rule containing the formula developed pursuant to this section to the Joint Legislative Oversight  
10 Commission on Department of Transportation Accountability.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2019.

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*Governor*